

LEGISLATIVE BILL 407

Approved by the Governor April 17, 2002

Introduced by Nebraska Retirement Systems Committee: Bruning, 3, Chairperson; Bourne, 8; Erdman, 47; Stuhr, 24; Wehrbein, 2; Wickersham, 49

AN ACT relating to retirement; to amend sections 23-2323.02, 72-1237, 72-1239.01, 72-1246, 72-1249.02, 79-927, 79-933.01, 79-948, 79-966, 79-968, 79-971, 79-973, 79-976, 79-977, 81-2031.03, 81-2031.04, 84-1312, 84-1313, 84-1322, and 84-1331, Reissue Revised Statutes of Nebraska, sections 23-2308, 23-2320, 24-710.05, 24-710.06, 79-901, 79-910, 79-916, 79-917, 79-933.02, 79-947, 79-960, 79-963, 79-967, 81-2016, 84-1301, and 84-1307, Revised Statutes Supplement, 2000, and sections 23-2301, 23-2306, 23-2309.01, 23-2310.05, 23-2323.03, 23-2331, 24-701.01, 24-702, 24-703, 79-902, 79-933.06, 79-934, 79-958, 79-998, 81-2014.01, 81-2017, 84-1310.01, 84-1311.03, and 84-1503, Revised Statutes Supplement, 2001; to change provisions relating to membership, participation, service, actuarial valuations, contributions, the Nebraska Investment Council, termination of employment, administrative fees, reemployment, compliance audits, rollover distributions and transfers, and funds; to create a fund; to eliminate and combine certain funds and accounts; to change and eliminate powers and duties of the state investment officer; to define and redefine terms; to provide powers and duties; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 79-914, 79-969, 79-970, and 79-972, Reissue Revised Statutes of Nebraska, and sections 72-1247 and 79-975, Revised Statutes Supplement, 2000; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 23-2301, Revised Statutes Supplement, 2001, is amended to read:

23-2301. For purposes of the County Employees Retirement Act, unless the context otherwise requires:

(1) (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(2) Date of adoption of the retirement system by each county means the first day of the month next following the date of approval of the retirement system by the county board or January 1, 1987, whichever is earlier;

(3) Date of disability means the date on which a member is determined by the board to be disabled;

(4) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(5) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the retirement system and vesting the employer account;

(6) Employees means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in

section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by ~~whom~~ which they are employed, except that employees does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

(7) Five-year break in service means a period of five consecutive one-year breaks in service;

(8) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(9) Future service means service following the date of adoption of the retirement system;

(10) Group annuity contract means the contract issued by one or more life insurance companies to the board in order to provide the future service benefits described in the act;

(11) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(12) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(13) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(14) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(15) ~~(14)~~ Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(16) ~~(15)~~ Prior service means service prior to the date of adoption of the retirement system;

(17) ~~(16)~~ Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments;

(18) ~~(17)~~ Required contribution means the deduction to be made from the compensation of employees as provided in the act;

(19) ~~(18)~~ Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the act;

(20) ~~(19)~~ Retirement board or board means the Public Employees Retirement Board;

(21) ~~(20)~~ Retirement system means the Retirement System for Nebraska Counties;

(22) ~~(21)~~ Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 23-2315;

(23) ~~(22)~~ Straight life annuity means an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind;

(24) ~~(23)~~ Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(25) ~~(24)~~ Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its

employer-employee relationship with an employee is dissolved. The county shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 2. Section 23-2306, Revised Statutes Supplement, 2001, is amended to read:

23-2306. (1) The membership of the retirement system shall be composed of all persons who are or were employed by member counties and who maintain an account balance with the retirement system.

(2) The following employees of member counties are authorized to participate in the retirement system: (a) ~~all~~ All full-time employees who have been employees for a period of twelve continuous months shall begin participation in the retirement system, except that full-time elected officials shall ~~be members~~ begin participation in the retirement system on taking office, (b) all full-time or part-time employees who have attained the age of ~~twenty-five~~, twenty and have been employed for a total of twelve months within a five-year period, ~~and may exercise the option to join~~ begin participation in the retirement system, and (c) all part-time elected officials ~~who may exercise the option to join~~ begin participation in the retirement system. ~~A part-time~~ An employee who exercises the option to ~~join~~ begin participation in the retirement system shall remain in the system until termination or retirement.

~~(2)~~ (3) Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

~~(3)~~ (4) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified ~~for~~ from membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

~~(4)~~ (5) A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive credit for his or her years of employment with the city, village, or township for purposes of the membership provisions of this section and shall receive eligibility and vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

~~(5)~~ (6) A full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall receive credit for his or her years of employment with the city, village, fire protection district, or township for purposes of the membership provisions of this section.

~~(6)~~ (7) Counties shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 3. Section 23-2308, Revised Statutes Supplement, 2000, is amended to read:

23-2308. The county clerk shall pay to the board or an entity designated by the board an amount equal to two hundred fifty percent of the amounts deducted from the compensation of employees in accordance with the

provisions of section 23-2307, which two hundred fifty percent equals the employees' contributions plus the county's contributions of one hundred fifty percent of the employees' contributions.

The board may charge the county a late fee, not to exceed fifty dollars, for any amount required by this section to be paid which is not received and any report which is not properly completed by the tenth day of the month following the end of the month for which the report is submitted an administrative processing fee of twenty-five dollars if the reports of necessary information or payments made pursuant to this section are received later than the date on which the board requires that such information or money should be received. In addition, the board may charge the county a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions.

Sec. 4. Section 23-2309.01, Revised Statutes Supplement, 2001, is amended to read:

23-2309.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. The investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ equities and ~~domestic~~ fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of ~~domestic~~ common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 5. Section 23-2310.05, Revised Statutes Supplement, 2001, is amended to read:

23-2310.05. (1) On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system

shall be allowed to allocate all contributions to his or her employer account after such date to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent ~~domestic~~ equities and seventy-five percent ~~domestic~~ fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent ~~domestic~~ equities and fifty percent ~~domestic~~ fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent ~~domestic~~ equities and twenty-five percent ~~domestic~~ fixed income instruments.

If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 6. Section 23-2320, Revised Statutes Supplement, 2000, is amended to read:

23-2320. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the County Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2) (a) A member who ceases to be an employee before becoming eligible for retirement under section 23-2315 and again becomes a permanent full-time or permanent part-time county employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions under rules and regulations adopted by the board. For purposes of vesting employer contributions made prior to and after the reentry into the retirement system under subsection (3) of section 23-2319, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 23-2319, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 23-2319.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 23-2319. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years of reemployment and shall be completed within five years of reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) ~~After the member completes one year of service following~~

~~reemployment, the~~ The value of the member's forfeited employer account, as of the date of forfeiture, shall be restored at the end of the plan year in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account shall be restored first out of the current forfeiture amounts of the county that received the member's forfeited employer account and then by additional employer contributions by the county that received the member's forfeited employer account.

(3) For a member who retired pursuant to section 23-2315 and becomes a permanent full-time employee or permanent part-time employee with a county under the County Employees Retirement Act after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the county shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Sec. 7. Section 23-2323.02, Reissue Revised Statutes of Nebraska, is amended to read:

23-2323.02. (1) For purposes of this section and section 23-2323.03:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified ~~trust~~ plan described in section 401(a) of the code, ~~and~~ (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means ~~only~~ subdivisions (1)(c)(i) ~~and (ii)~~ through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 8. Section 23-2323.03, Revised Statutes Supplement, 2001, is amended to read:

23-2323.03. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01 if the contributions do not exceed the amount authorized to be paid by the member pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01, and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified ~~trust~~ plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified ~~trust~~ plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified ~~trust~~ plan,

individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified ~~trust~~ plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

~~(4)~~ (5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 9. The retirement system may accept as payment for withdrawn amounts made pursuant to the County Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Sec. 10. Section 23-2331, Revised Statutes Supplement, 2001, is amended to read:

23-2331. Sections 23-2301 to 23-2332.01 and section 9 of this act shall be known and may be cited as the County Employees Retirement Act.

Sec. 11. Section 24-701.01, Revised Statutes Supplement, 2001, is amended to read:

24-701.01. Sections 24-701 to 24-714 and section 16 of this act shall be known and may be cited as the Judges Retirement Act.

Sec. 12. Section 24-702, Revised Statutes Supplement, 2001, is amended to read:

24-702. (1) There is hereby created in the state treasury a fund to be known as the Nebraska Retirement Fund for Judges which shall be administered by the board and to which shall be credited all money appropriated or transferred by law thereto. The fund is hereby appropriated and made available to the board for the uses and purposes prescribed by the provisions of the Judges Retirement Act.

(2) The employer contribution to the fund shall consist of the amounts remitted pursuant to subsection (3) of section 24-703.

(3) The Nebraska Judges Retirement Act Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the Judges Retirement Act and necessary in connection with the administration and operation of the retirement system.

Sec. 13. Section 24-703, Revised Statutes Supplement, 2001, is amended to read:

24-703. (1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (10) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to

the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2) Each future member shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. Any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and as limited in subsection (2) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services to make a deduction of six percent on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the six percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) A Nebraska Retirement Fund for Judges fee of one dollar shall be taxed as costs in each civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts and the county courts. In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06. No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06. When collected by the clerk of the district or county court, such fees shall be paid to the director in charge of the judges retirement system on forms prescribed by the board by the clerk within ten days after the close of each calendar quarter. Such director shall promptly thereafter remit the same to the State Treasurer for credit to the fund. No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits and for the expenses of administration.

(5) The fund shall consist of the total fund as of December 25, 1969, the contributions of members as provided in this section, all supplementary court fees as provided in subsection (3) of this section, and any required contributions of the state.

(6) Not later than January 1 of each year, the State Treasurer shall transfer to the fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30 in excess of member contributions for that fiscal year and court fees as provided in subsection (3) of this section, if any, for that fiscal year plus any required contributions of the state as provided in subsection (9) of this section.

(7) Benefits under the retirement system to members or to their beneficiaries shall be paid from the fund.

(8) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board.

(9) Not later than January 1 of each year, the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the retirement system as of June 30, 1988, by level payments up to January 1, 2000. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. ~~Any change in the unfunded accrued liabilities due to benefit or assumption changes shall be fully funded over the average expected future service of the active members of the retirement system or by the first day of the twenty-sixth calendar year after the date of the actuarial valuation which first recognized these changes, whichever occurs first. The change in the unfunded accrued liabilities shall be funded by level annual payments which shall be made over the lesser of twenty-five years or the average expected future service of the active members of the retirement system. If the unfunded accrued liability for the retirement system, determined under the entry age actuarial cost method, is zero or less than~~

zero on any actuarial valuation date, then all prior unfunded accrued liability amounts shall be considered fully funded. Effective July 1, 1988, actuarial gains and losses shall be amortized over the expected future service of the active members as part of the annual normal cost. For the fiscal year beginning July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Judges Retirement Act.

(10) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state or county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction through a reduction in the compensation of the member. Member contributions picked up shall be treated for all purposes of the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 14. Section 24-710.05, Revised Statutes Supplement, 2000, is amended to read:

24-710.05. (1) For purposes of this section and section 24-710.06:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified ~~trust~~ plan described in section 401(a) of the code, ~~and~~ (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means ~~only~~ subdivisions (1)(c)(i) ~~and (ii)~~ through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover

distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 15. Section 24-710.06, Revised Statutes Supplement, 2000, is amended to read:

24-710.06. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 24-706 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified ~~trust~~ plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified ~~trust~~ plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified ~~trust~~ plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified ~~trust~~ plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

~~(4)~~ (5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 16. The retirement system may accept as payment for withdrawn amounts made pursuant to the Judges Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Sec. 17. Section 72-1237, Reissue Revised Statutes of Nebraska, is amended to read:

72-1237. ~~There is hereby created the~~ The Nebraska Investment Council ~~is created.~~ ~~referred to in~~ For purposes of the Nebraska State Funds Investment Act, ~~as the~~ council means the Nebraska Investment Council. The council shall consist of five members, appointed by the Governor with the approval of the Legislature, and the State Treasurer and the director of the Nebraska Public Employees Retirement Systems as nonvoting, ex officio members. One of the appointed members shall be designated chairperson by the Governor.

Each of the appointed members of the council shall serve for a term of five years and may be removed by the Governor for cause after notice and an opportunity to be heard. The term of any appointed member shall be extended until the date on which his or her successor's appointment is effective. A member may be reappointed. A successor shall be appointed in the same manner as provided for the members first appointed, and in case of a vacancy caused by death, resignation, or otherwise, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.

No member of the council shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violation of law, for actions relating to ~~investment decisions pertaining to the assets of the~~

~~retirement systems invested by his or her duties as a member of the council.~~

Sec. 18. Section 72-1239.01, Reissue Revised Statutes of Nebraska, is amended to read:

72-1239.01. (1) (a) The appointed members of the Nebraska Investment Council shall have the responsibility for the investment management of the assets of the retirement systems administered by the Public Employees Retirement Board as provided in section 84-1503. The appointed members ~~shall~~ be deemed fiduciaries with respect to the investment of the assets of the retirement systems, and shall be held to the standard of conduct of a fiduciary specified in subsection ~~(2)~~ (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

~~(2)~~ (b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of the retirement systems solely in the interests of the members and beneficiaries of the retirement systems for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law.

(2) (a) The appointed members of the Nebraska Investment Council shall have the responsibility for the investment management of the assets of state funds. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of state funds and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of state funds solely in the interests of the citizens of the state within the limitations and according to the powers, duties, and purposes prescribed by law.

(3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

Sec. 19. Section 72-1246, Reissue Revised Statutes of Nebraska, is amended to read:

72-1246. The state investment officer shall invest in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is named on the basis of representations of special skills or expertise, he or she is under a duty to use such skills, subject to the direction of the Nebraska Investment Council.

Sec. 20. Section 72-1249.02, Reissue Revised Statutes of Nebraska, is amended to read:

72-1249.02. ~~There is hereby established in the state treasury the~~ The State Investment Officer's Cash Fund is created. A pro rata share of the budget appropriated for the Nebraska Investment Council shall be charged to the income of each fund managed, and such charges shall be transferred to the State Investment Officer's Cash Fund. The allocation of charges ~~shall~~ may be ~~based on the market values of the assets of the funds on the last business day of June one year preceding the beginning of the budget year made by any method determined to be reasonably related to actual costs incurred by the Nebraska Investment Council.~~ Approval of the agencies and boards administering these funds shall not be required.

It is the intent of this section to have funds managed by the state investment officer pay a pro rata share of the investment management expense when this is not prohibited by statute or the constitution.

Management, custodial, and service costs which are a direct expense of state ~~trust~~ funds may be paid from the income of such ~~trust~~ funds when this is not prohibited by statute or the constitution. For purposes of this section, management, custodial, and service costs shall include, but not be limited to, ~~fees paid to primary carriers,~~ investment counsel fees for managing assets, real estate mortgage loan service fees, real estate management fees, and custody fees for ~~trust~~ fund securities. All such fees shall be approved by the Nebraska Investment Council and the state investment officer.

Sec. 21. Section 79-901, Revised Statutes Supplement, 2000, is

amended to read:

79-901. Sections 79-901 to 79-977.03 and sections 26, 31, 38, and 42 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 22. Section 79-902, Revised Statutes Supplement, 2001, is amended to read:

79-902. For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) Junior school employee means a school employee who has not arrived at his or her twenty-first birthday anniversary on August 15 preceding;

~~(11) School employee means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit pursuant to section 79-927. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular hired upon a full-time basis which contemplates a workweek of not less than thirty hours; (b) regular part-time employees hired for not less than sixty hours per month; and (c) school employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute school employees shall not be considered school employees;~~

~~(12) (11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;~~

~~(13) (12) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including~~

(a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

~~(14)~~ (13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

~~(15)~~ (14) Retirement board or board means the Public Employees Retirement Board;

~~(16)~~ (15) Retirement system means the School Retirement System of the State of Nebraska;

~~(17)~~ (16) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

~~(18)~~ (17) School year means one fiscal year which includes not less than one thousand ~~thirty-two~~ instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

~~(19)~~ Senior school employee means a school employee who has arrived at his or her ~~twenty-first birthday anniversary on August 15 preceding,~~

~~(20)~~ (18) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

~~(21)~~ (19) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

~~(22)~~ (20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

~~(23)~~ (21) State deposit means the deposit by the state in the retirement system on behalf of any member;

~~(24)~~ (22) State school official means the Commissioner of Education and his or her professional staff;

~~(25)~~ (23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

~~(26)~~ (24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

~~(27)~~ (25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's

Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

~~(28)~~ (26) Retirement date means the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member terminates employment in the school system;

~~(29)~~ (27) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

~~(30)~~ (28) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

~~(31)~~ (29) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

~~(32)~~ (30) (a) Final average compensation means ~~(i) for full-time employees, the sum of the member's total compensation subject to required deposits for the three fiscal years during the three twelve-month periods of service as a school employee in which such compensation was the highest divided by thirty-six and (ii) for part-time employees, the member's total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest~~ greatest divided by thirty-six.

(b) In the determination of final average compensation for members who retire on or after May 26, 1999, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless ~~(i) the member experienced a substantial change in employment position or (ii) the excess compensation occurred as the result of a collective bargaining agreement between the employer and a recognized collective bargaining unit or category of school employee.~~

~~(c) For purposes of this subdivision, (i) category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both and (ii) recognized collective bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.~~

~~(d) If a member has such compensation for less than three such fiscal years~~ thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all ~~such years~~ months by the total number of months of his or her creditable service therefor. ~~Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year.~~

~~(e) (c) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;~~

~~(33)~~ (31) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

~~(34)~~ (32) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

~~(35)~~ (33) Initial benefit means the retirement benefit calculated at the time of retirement;

~~(36)~~ (34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

~~(37)~~ (35) (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include amounts which the retirement board determines were fraudulently obtained, compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993.

(c) (i) In the determination of compensation for members on or after the operative date of this section, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless (A) the member experienced a substantial change in employment position or (B) the excess compensation occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee.

(ii) For purposes of this subdivision, (A) category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both and (B) recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board;

~~(38)~~ (36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, determines that the member's employer-employee relationship with the employer is dissolved the date of which separation is determined by the employer. The employer shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not include ceasing employment at the end of the school year if the member subsequently provides compensated service on a regular basis in any capacity for any school district other than a Class V school district within one hundred eighty calendar days after ceasing employment or if the board determines that a purported termination was not a bona fide separation from service with the employer;

~~(39)~~ (37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration; and

~~(40)~~

(38) Substitute school employee means a person hired by a public school as a temporary employee on an intermittent basis to assume the duties of regular school employees due to the temporary absence of the regular school employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for fifteen or more hours per week; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee.

Sec. 23. Section 79-910, Revised Statutes Supplement, 2000, is amended to read:

79-910. (1) The membership of the retirement system shall be composed of (a) all persons who have an account in the School Retirement Fund, (b) all school employees who on or after the operative date of this section must participate in the retirement system pursuant to section 26 of this act and who have begun participation in the retirement system, and (c) emeritus

members. The membership of the retirement system does not include persons described in sections 79-915 and 79-919 who are specifically excluded from membership in the retirement system.

(2) The membership of the retirement system also includes any person who prior to the operative date of this section qualified for membership as follows: (a) All persons who become school employees after September 1, 1945, except those specifically excluded under sections 79-916 and 79-919, shall become members as soon as they become senior school employees, as senior school employee was defined in section 79-902 prior to the operative date of this section; (b) senior school employees on July 1, 1945, except those specifically excluded in sections 79-916 and 79-919, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and (c) emeritus members.

~~(2)~~ (3) Any school employee who qualifies for membership in the retirement system pursuant to subsection (1) or (2) of this section may not be disqualified ~~for~~ from membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

Sec. 24. Section 79-916, Revised Statutes Supplement, 2000, is amended to read:

79-916. (1) ~~At the time of retirement of any employee who serves Beginning July 1, 2002, and each fiscal year thereafter, the board shall transfer the actuarial value of the service annuity liability accrued within the prior fiscal year of the employees who serve a Class V school district operating under a retirement system established pursuant to section 79-979, the retirement board shall, and participate in the retirement system established pursuant to the Class V School Employees Retirement Act upon receipt of a certification from the school district as to the number of years of service upon which the retirement is based, employees who have accrued a service annuity benefit for such fiscal year. Upon receipt of the certification, the board shall cause to be transferred to the funds of the retirement system of which such employee is a member employees are members the actuarial value, as determined pursuant to section 38 of this act, of the service annuity annuities to be paid by the state for the years of service thus certified in the same amount and basis as provided for members of the School Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such employee, in order to qualify for prior service credit toward a service annuity, shall have the same qualifications as members of the School Retirement System of the State of Nebraska who became members on or before July 1, 1950, as provided by section 79-926 but shall not come under the provisions of the School Employees Retirement Act while so employed. Such transfer of actuarial value to the Class V School Employees Retirement System retirement system of which such employee is a member shall be in lieu of the payment of the service annuity to which he or she such employees would be otherwise entitled. on the condition that the monthly payment received by him or her from such system shall be in the amount not less than the sum of his or her service annuity and the member's annuity which is the actuarial equivalent of his or her own contributions accumulated at interest to retirement. The Class V school district which such employee serves employees serve shall furnish to the retirement board all information required by the retirement board regarding service records of its employees.~~

(2) In addition to the transfer of the actuarial value of the service annuity to be paid by the state, the state shall also transfer to the funds of the Class V school district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Employers Deposit Account Retirement Fund. The transfer shall be made annually on or before July 1 of each fiscal year.

Sec. 25. Section 79-917, Revised Statutes Supplement, 2000, is amended to read:

79-917. Within the first thirty days of employment, a school employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the

other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as defined in the Nebraska governmental plan in which the credit was earned. Such credit shall not be included as years of service in the benefit calculation. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

Sec. 26. (1) Except for substitute employees, each person employed by a public school who is a school employee shall participate in the retirement system.

(2) Public schools shall ensure that all school employees who qualify for participation pursuant to this section shall begin annual participation on July 1 of each plan year or upon such person's date of hire, if later than July 1, and that all required deposits are made on behalf of such employees.

Sec. 27. Section 79-927, Reissue Revised Statutes of Nebraska, is amended to read:

79-927. The retirement board shall fix and determine, by rules and regulations, how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be credited for all service in one fiscal year. (1) The board shall grant service credit pursuant to this section on an annual basis to members who participate during each fiscal year.

(2) For a member who is subject to the wage and hour provisions of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq., as such sections existed on January 1, 2002, service credit shall be calculated as follows:

(a) For each year during which a member provides compensated service to one or more school districts for one thousand or more hours, the member shall be credited one year of service credit; and

(b) For each year during which a member provides less than one thousand hours of compensated service to one or more school districts, the member shall be credited one one-thousandth of a year's service credit for each hour worked.

(3) For a member who is exempt from the wage and hour provisions of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq., as such sections existed on January 1, 2002, service credit shall be calculated as follows:

(a) Full-time service rendered for the regular school year in ~~any district~~ one or more public schools shall be equivalent to one year's service;

(b) Part-time service, ~~representing at least half-time employment on contract,~~ in one or more public schools shall be credited as individual years of fractional employment in proportion to the ratio the part-time service bears to the amount of time considered to be full-time service for the plan year; and

(c) If a member is employed for less than the full plan year, the member shall be granted a fractional year of service credit calculated pursuant to subdivision (a) or (b) of this subsection for only that portion of the plan year the member was employed.

(4) The board may adopt and promulgate rules and regulations for the granting of service credit in accordance with this section, but in no case shall more than one year of service be granted for all service in one plan year.

Sec. 28. Section 79-933.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-933.01. (1) For purposes of this section and section 79-933.02:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified ~~trust~~ plan described in section 401(a) of the code, ~~and~~ (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means ~~only~~ subdivisions (1)(c)(i) ~~and (ii)~~ through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the

distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 29. Section 79-933.02, Revised Statutes Supplement, 2000, is amended to read:

79-933.02. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such sections and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified ~~trust~~ plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified ~~trust~~ plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified ~~trust~~ plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified ~~trust~~ plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

~~(4)~~ (5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 30. Section 79-933.06, Revised Statutes Supplement, 2001, is amended to read:

79-933.06. (1) Any contributing member may purchase service credit for time he or she was on a leave of absence authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination of employment, and retirement benefits. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years after such member's election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or

study. Such leave shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

Sec. 31. The retirement system may accept as payment for purchases of service credit or withdrawn amounts made pursuant to the School Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such credit or amounts. The amount transferred shall not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Sec. 32. Section 79-934, Revised Statutes Supplement, 2001, is amended to read:

79-934. (1) In lieu of the school retirement allowance provided by section 79-933, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-933 by (a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, (d) one and seventy-three hundredths percent of his or her final average compensation for a member actively employed as a public school employee under the retirement system or under contract with an employer on or after June 5, 1993, (e) one and eight-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1995, and was employed as a public school employee under the retirement system or under contract with an employer on or after April 10, 1996, (f) one and nine-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1998, and was employed as a public school employee under the retirement system or under contract with an employer on or after April 29, 1999, or (g) two percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 2000, who was employed as a public school employee under the retirement system or under contract with an employer on or after May 2, 2001, and who has not retired prior to May 2, 2001. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to April 29, 1999. Subdivision (2)(g) of this section shall not apply to a member who is retired prior to May 2, 2001.

(3) If the annuity begins on or after the sixty-fifth birthday of a member, the annuity shall not be reduced. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty or more years of creditable service and is at least sixty years of age, the annuity shall not be reduced. If the annuity begins prior to the sixtieth birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five. If the annuity begins on or after the sixtieth birthday of the member and the member has completed at least a total of five years of (a) creditable service plus (b) eligibility and vesting credit but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of creditable service would have totaled ninety or three percent for each year after the member's sixtieth birthday and prior to

his or her sixty-fifth birthday, whichever provides the greater annuity.

(4) For retirements on or after March 4, 1998, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subsection shall only apply to a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1997, and who was a school employee on or after March 4, 1998. This subsection shall not apply to a member who is retired prior to March 4, 1998.

(5) Except as provided in section 42-1107, the normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made. Except as provided in section 42-1107, a member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-938.

(6) All formula annuities shall be paid from the School Retirement Fund. Annuity Reserve Account. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Account: (a) From the Service Annuity Account, the value of the service annuity which would otherwise be payable; (b) from the School Employees Savings Account, the accumulated contributions of the member; and (c) from the School Employers Deposit Account, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Account and the School Employees Savings Account. The amounts transferred from the Service Annuity Account at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis.

Sec. 33. Section 79-947, Revised Statutes Supplement, 2000, is amended to read:

79-947. (1) Commencing October 1, 1988, the retirement board shall determine an adjusted supplemental retirement benefit to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement for each person who is retired from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act with twenty-five or more years of creditable service as of October 1, 1988.

(2) For each person who qualifies under subsection (1) of this section, the retirement board shall determine the value of the total monthly benefit being received from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act and the supplemental benefit provided by section 79-942 if applicable. From two hundred fifty dollars, the board shall subtract the total monthly benefit. Such difference, if positive, shall be the adjusted supplemental retirement benefit and shall be paid to the retired person each month, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. The adjusted supplemental retirement benefit shall be paid to a retired person during his or her life.

(3) The retirement board may buy a paid-up annuity for a retired person which guarantees the adjusted supplemental retirement benefit provided under this section.

(4) The adjusted supplemental retirement benefit provided under this section shall be funded from the Contingent Account but only from such income which would be paid to the School Employees Savings Account and the School Employers Deposit Account that is attributable to employer and employee contributions.

Sec. 34. Section 79-948, Reissue Revised Statutes of Nebraska, is amended to read:

79-948. The right of a person to an annuity, an allowance, or any optional benefit under the School Employees Retirement Act, any other right accrued or accruing to any person or persons under such act, the various funds and accounts account created thereby, and all the money, investments, and income thereof shall be exempt from any state, county, municipal, or other local tax, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall not be assignable except to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Sec. 35. Section 79-958, Revised Statutes Supplement, 2001, is

amended to read:

79-958. (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account pay for formula annuities, every employee shall be required to make deposits deposit in the School Retirement Fund seven and twenty-five hundredths percent of compensation. Such deposits shall be a percentage of total compensation and shall be transmitted at the same time and in the same manner as required employer contributions. For the fiscal year beginning on July 1, 1996, the employee percentage shall be seven and twenty-five hundredths percent of compensation, of which three-tenths of one percent of compensation shall be transferred from the School Employees Savings Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-975. For the fiscal year beginning on July 1, 1997, and each fiscal year thereafter, the retirement board shall set the employee percentage at forty-nine and seventy-five hundredths percent of the funding rate determined by the actuary or at seven and twenty-five hundredths percent of compensation, whichever is greater. The actuary for the retirement board shall determine the funding rate by taking the excess formula annuity liabilities less the actuarial value of both the School Employees Savings Account and the School Employers Deposit Account less the actuarial present value of the state deposit of seven-tenths of one percent of compensation of all members of the retirement system and dividing such result by the actuarial present value of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account pay for formula annuities, every employer shall be required to make deposits deposit in the School Retirement Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer. Such deposits and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. For the fiscal year beginning on July 1, 1996, three-tenths of one percent of compensation shall be transferred from the School Employers Deposit Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-975.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

Sec. 36. Section 79-960, Revised Statutes Supplement, 2000, is amended to read:

79-960. Every employer shall deduct and withhold an amount pursuant to section 79-958 from the compensation as a school employee of each member on each payroll period after such school employee becomes a member of the retirement system. The employer, through its proper agents, the superintendent of the school district or the administrator of a Class I school district, or the secretary of the school board, shall transmit monthly, quarterly, or semiannually if periodically, as directed by the retirement board so directs a copy of such payroll, and in such form as is approved by the retirement board, and a remittance payable to the order of the State Treasurer for all deductions from the compensation of members on such payroll. The remittances may be in a form as specified such amounts and any other information required by the retirement board. The board shall immediately transmit to the State Treasurer all payments received. The board may charge the employer a late administrative processing fee, not to exceed fifty dollars, if the deduction report, the monthly remittance report, or the monthly money due is not received and properly completed by the date due as prescribed twenty-five dollars if the information and money required by

section 79-958 are delinquent or are not timely received by the board. In addition, the board may charge the employer a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions. The board shall charge the employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each school employee deprived of interest by the delay.

Sec. 37. Section 79-963, Revised Statutes Supplement, 2000, is amended to read:

79-963. Every employer and school employee shall send to the director of the Nebraska Public Employees Retirement Systems, as specified in section 79-906, upon request and in the manner required by the director, such information as he or she may require (1) for the identification of school employees and (2) for the determination of the membership of the retirement system and the obligations of the employer and school employee to the retirement system. If an employee who is qualified for membership fails or refuses to file, within one calendar year of becoming a member, in complete form, a membership registration blank properly identifying the member, fifty dollars shall be transferred from such employee's individual account in the School Retirement Fund to the Service Annuity Account.

Sec. 38. Beginning July 1, 2002, and each year thereafter, this section shall govern annual actuarial valuations of the School Retirement Fund. In order to determine the additional required deposits by the State of Nebraska, as required by section 79-966, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially-required contribution rate and the rate of all other required contributions.

Sec. 39. Section 79-966, Reissue Revised Statutes of Nebraska, is amended to read:

79-966. (1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the Service Annuity Account School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 38 of this act. on the basis of an annual actuarial valuation to be sufficient to fully fund the service annuities earned in that fiscal year and to fund the unfunded accrued liabilities for all service annuities earned prior to that year by level payments up to January 1, 1994, in the amounts established prior to May 19, 1981. Any increase in the unfunded accrued liability that arises as a result of increasing the amount of the service annuity on or after May 19, 1981, shall increase the state deposit by an amount sufficient to fund the increase in the unfunded accrued liability by level payments for the twenty-five-year period following the date the increase becomes effective. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the

Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the ~~Service Annuity Account~~ School Retirement Fund the amount of such state deposit.

(2) In addition to the state ~~deposit to the Service Annuity Account~~ deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund ~~Employers Deposit Account~~ an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on or after July 1, 2011, and each fiscal year thereafter, the state shall deposit in the School Retirement Fund an amount equal to the normal cost of the service annuity benefit established pursuant to section 79-933 which had accrued during the prior fiscal year for members of both the retirement system and the retirement system established pursuant to the Class V School Employees Retirement Act. The retirement board shall immediately transfer the money deposited to pay the normal cost for members of the Class V School Employees Retirement System to the administrators of that retirement system.

Sec. 40. Section 79-967, Revised Statutes Supplement, 2000, is amended to read:

79-967. As often as may be necessary, the retirement board shall cause to be made a thorough investigation of the several funds or ~~accounts~~ account of the retirement system for the purpose of determining the rates at which the benefits will be granted. It shall make adjustments in such rates as, upon recommendation of the actuary, may appear to be proper for maintaining solvency of the several funds or ~~accounts~~ account. No revision of rates shall affect adversely the rights of any beneficiary under an application made prior to such revision. The retirement board shall, from time to time, order and make such distribution of gains and savings to the several funds or ~~accounts~~ account as it may deem equitable.

Sec. 41. Section 79-968, Reissue Revised Statutes of Nebraska, is amended to read:

79-968. All assets of the retirement system shall be credited, according to the purpose for which they are held, to the Expense Fund, to the School Employees Retirement System Reserve Fund, or to ~~one of five accounts in the School Retirement Fund, namely, the School Employees Savings Account, the School Employers Deposit Account, the Service Annuity Account, the Annuity Reserve Account, and the Contingent Account~~. Any money in ~~these accounts~~ the account or funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 42. The School Retirement Fund is created. The required deposits of the employer, the state, and the employees shall be credited to the fund and all savings annuities, service annuities, and formula annuities shall be paid from the fund as provided in the School Employees Retirement Act. Any unexpended balance existing on June 30, 2002, in the School Employers Deposit Account, the Service Annuity Account, the School Employees Savings Account, the Annuity Reserve Account, and the School Employees Retirement System Reserve Fund shall be transferred to the School Retirement Fund.

Sec. 43. Section 79-971, Reissue Revised Statutes of Nebraska, is amended to read:

79-971. The ~~School Nebraska Public Employees Savings Account~~ Retirement Systems shall be the account in which keep an accounting of the required deposits from the compensation of members collected to provide savings annuities. ~~are accumulated.~~ The accumulated contributions, plus statutorily required accumulated interest, of a member, may be returned to him or her upon his or her withdrawal from membership or termination, paid to his or her estate or designated beneficiary in the event of his or her death as provided in section 79-956, or used in the event of his or her retirement to assist in funding his or her school retirement allowance, disability retirement allowance, or formula annuity allowance. ~~shall be paid from the School Employees Savings Account.~~ Any accumulated contributions forfeited shall be transferred from the School Employees Savings Account Retirement Fund to the Contingent Account. ~~The accumulated contributions of a member shall be transferred from the School Employees Savings Account to the Annuity Reserve Account in the event of his or her retirement on a school retirement allowance, a disability retirement allowance, or a formula annuity retirement allowance.~~

Sec. 44. Section 79-973, Reissue Revised Statutes of Nebraska, is amended to read:

79-973. A Contingent Account is created (1) to facilitate the crediting of regular interest on the amounts in the ~~various other accounts, with the exception of the Expense Fund,~~ School Retirement Fund, (2) to fund the adjusted supplemental retirement benefit provided by section 79-947, and (3) to provide an account to cover any special requirements of the School Retirement Fund Annuity Reserve Account or the Expense Fund. ~~insofar as the state is responsible for such accounts or fund.~~ All income, interest, and dividends derived from the deposits and investments authorized by the School Employees Retirement Act shall be paid into the Contingent Account. The retirement board may accept gifts, devises, and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from the School Employees Savings Account Retirement Fund by reason of the lack of a claimant or because of a surplus in any fund or account described in section 79-968, ~~other than the School Employees Retirement System Reserve Fund,~~ or any other money the disposition of which is not otherwise provided for in the act, shall be credited to the Contingent Account. ~~The interest allowed by the retirement board to each of the funds or accounts shall be paid to such funds or accounts from the Contingent Account or shall be used to fund the adjusted supplemental retirement benefit provided by section 79-947.~~ Any deficit occurring in the School Retirement Fund Annuity Reserve Account or in the Expense Fund, ~~insofar as the state is responsible for such account or fund,~~ shall be met by payments to the fund ~~or account in question~~ from the Contingent Account. Annually the retirement board shall estimate the amount of money deemed necessary to pay the obligation levied against the Contingent Account, including regular interest. If such amount exceeds the revenue estimated to accrue to the fund ~~or account~~ for that year, such excess shall be certified to the State Treasurer and shall, on warrant of the Director of Administrative Services, be transferred from funds appropriated by the state for such purpose to the Contingent Account.

Sec. 45. Section 79-976, Reissue Revised Statutes of Nebraska, is amended to read:

79-976. Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. ~~or accounts.~~ Charges so incurred shall not be a part of the retirement board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the retirement board, and the Nebraska Retirement Systems Committee of the Legislature. All money received by the State Treasurer and the retirement board for the retirement system shall be invested by the state investment officer within thirty-one days after receipt.

Sec. 46. Section 79-977, Reissue Revised Statutes of Nebraska, is amended to read:

79-977. Any expenditure made by a school district pursuant to sections 79-934, 79-968, and 79-973 as changed by Laws 1993, LB 292, ~~and section 79-975~~ shall be considered a general fund expenditure of the district and shall not be exempt from the growth limitations placed on district spending by the Tax Equity and Educational Opportunities Support Act.

Sec. 47. Section 79-998, Revised Statutes Supplement, 2001, is amended to read:

79-998. The retirement system may accept ~~cash rollover contributions from a member who is making payments for additional service credits~~ as payment for additional service credit that is purchased pursuant to sections 79-990 to 79-992 an eligible rollover distribution from or on behalf of the member who is making payments for such service credit if the contributions de eligible rollover distribution does not exceed the amount of payment required for the service credits credit being purchased by the member. pursuant to such sections and The eligible rollover distribution may be contributed to the retirement system by the member or directly transferred from the plan that is making the eligible rollover distribution on behalf of the member. Contribution by a member pursuant to this section may only be made in the form of a cash contribution. For purposes of this section, an eligible rollover distribution means all or any portion of an amount that qualifies as an eligible rollover distribution under the Internal Revenue Code from:

(1) ~~The contributions represent all or any portion of the member's interest in a A plan of a former another employer which is qualified under section 401(a) or 403(a) of the Internal Revenue Code; and as defined in section 49-801.01, and such interest may be transferred to the system as a qualifying~~

~~rollover contribution under the Internal Revenue Code, or~~

(2) An annuity contract or custodial account described in section 403(b) of the Internal Revenue Code;

(3) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code which is maintained by a governmental employer described in section 457(e)(1)(A) of the Internal Revenue Code; or

(4) An individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over to an employer plan under the Internal Revenue Code.

The retirement system may accept as payment for service credit that is purchased pursuant to sections 79-990 to 79-992 a direct trustee-to-trustee transfer from an eligible deferred compensation plan as described in section 457(e)(17) of the Internal Revenue Code on behalf of a member who is making payments for such service credit if the amount transferred from the eligible deferred compensation plan does not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit qualifies as the purchase of permissive service credit by the member as defined in section 415(n)(3) of the Internal Revenue Code.

The trustees may establish rules, regulations, and limitations on the eligible rollover distributions and direct trustee-to-trustee transfers that may be accepted by the retirement system pursuant to this section, including restrictions on the type of assets that may be transferred to the retirement system. The contributions represent the interest of a member from an individual retirement account or individual retirement annuity, the entire amount of which is attributable to a qualified total distribution as defined in the Internal Revenue Code from a source described in subdivision (1) of this section and thus qualified as a tax-free rollover amount, and the interest is transferred to the system within sixty days from the date of distribution of the individual retirement account or individual retirement annuity.

Cash and other properties contributed or transferred to the system as a rollover contribution pursuant to this section shall be deposited and held as a commingled asset of the system and shall not be separately accounted for or invested for the member's benefit. Rollover contributions Contributions or direct transfers made by or on behalf of any member pursuant to this section shall be treated as qualifying payments under sections 79-990 to 79-992 and as employee contributions for all other purposes of the Class V School Employees Retirement Act except in determining federal and state tax treatment of distributions from the system.

The system, the board, the trustees, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income tax consequences of any contribution or transfer made to the system pursuant to this section, and the trustees may require as a condition to the system's acceptance of any rollover contribution or transfer satisfactory evidence that the proposed contribution or transfer is a qualifying rollover contribution or trustee-to-trustee transfer under the Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such contribution or transfer.

Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the Internal Revenue Code, from the system may, in accordance with such rules, regulations, and limitations as may be established by the trustees, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the trustees.

All distributions from the system shall be subject to all withholdings required by federal or state tax laws.

Sec. 48. Section 81-2014.01, Revised Statutes Supplement, 2001, is amended to read:

81-2014.01. Sections 81-2014 to 81-2040 and section 53 of this act shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Sec. 49. Section 81-2016, Revised Statutes Supplement, 2000, is amended to read:

81-2016. (1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of ~~this~~ the system.

(2) Within the first thirty days of employment, a member may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the

Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned.

(3) Any officer who qualifies for membership pursuant to subsection (1) of this section may not be disqualified ~~for~~ from membership in the retirement system solely because such officer also maintains separate employment which qualifies the officer for membership in another public retirement system, nor may membership in this retirement system disqualify such an officer from membership in another public retirement system solely by reason of separate employment which qualifies such officer for membership in this retirement system.

(4) Information necessary to determine membership shall be provided by the Nebraska State Patrol.

(5) The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

Sec. 50. Section 81-2017, Revised Statutes Supplement, 2001, is amended to read:

81-2017. (1) Prior to July 1, 1995, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eight percent of his or her monthly compensation. Commencing July 1, 1995, and through June 30, 1996, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to ten percent of his or her monthly compensation. Commencing July 1, 1996, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eleven percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (2) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board. In addition there shall be transferred from the General Fund monthly by the State Treasurer a sum equal to the amount of such compensation deductions each month which shall be credited to the State Patrol Retirement Fund. The fund shall further be supplemented annually by an appropriation in such amount, if any, as may be determined on the basis of an actuarial valuation prepared by a member of the American Academy of Actuaries to be sufficient to fully fund ~~(a)~~ the unfunded accrued liability of the system as of June 30, 1988, by January 1, 2005. For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. ~~(b) any change in the unfunded accrued liabilities due to benefit or assumption changes during the average expected future service of the active members of the system or by the first day of the twenty-sixth calendar year after the date of the actuarial valuation which first recognized these changes, whichever occurs first. The change in the unfunded accrued liabilities shall be funded by level annual payments which shall be made over the lesser of twenty-five years or the average expected future service of the active members of the system, and (c) any other increase or decrease in the unfunded accrued liability occurring after June 30, 1988, that is not attributable to changes~~

in benefits or assumptions over the expected future service of the active member group as part of the normal cost. If the unfunded accrued liability determined under the entry age actuarial cost method is zero or less than zero on any actuarial valuation date, then all prior unfunded accrued liabilities shall be considered fully funded. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(2) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 51. Section 81-2031.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-2031.03. (1) For purposes of this section and section 81-2031.04:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified ~~trust~~ plan described in section 401(a) of the code, and (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means ~~only~~ subdivisions (1)(c)(i) and ~~(ii)~~ through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 52. Section 81-2031.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-2031.04. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 81-2031 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified ~~trust~~ plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified ~~trust~~ plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the

retirement system within sixty days from the date of the distribution from the qualified ~~trust~~ plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified ~~trust~~ plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

~~(4)~~ (5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 53. The retirement system may accept as payment for withdrawn amounts made pursuant to the Nebraska State Patrol Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Sec. 54. Section 84-1301, Revised Statutes Supplement, 2000, is amended to read:

84-1301. For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(2) Date of disability means the date on which a member is determined to be disabled by the board;

(3) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(4) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the system and vesting the employer account;

(5) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f)

employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(6) Five-year break in service means five consecutive one-year breaks in service;

(7) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(8) Fund means the State Employees Retirement Fund created by section 84-1309;

(9) Group annuity contract means the contract or contracts issued by one or more life insurance companies to the board in order to provide the benefits described in sections 84-1319, 84-1320, 84-1321, 84-1323, and 84-1323.01;

(10) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(11) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(12) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(13) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(14) ~~(13)~~ Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(15) ~~(14)~~ Prior service means service before January 1, 1964;

(16) ~~(15)~~ Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments;

(17) ~~(16)~~ Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(18) ~~(17)~~ Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the State Employees Retirement Act;

(19) ~~(18)~~ Retirement board or board means the Public Employees Retirement Board;

(20) ~~(19)~~ Retirement system means the State Employees Retirement System of the State of Nebraska;

(21) ~~(20)~~ Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

(22) ~~(21)~~ State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

(23) ~~(22)~~ Straight life annuity means an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death

without refund or death benefit of any kind;

(24) ~~(23)~~ Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(25) ~~(24)~~ Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 55. Section 84-1307, Revised Statutes Supplement, 2000, is amended to read:

84-1307. (1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance in the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) all All permanent full-time employees who have ~~twenty-four~~ twelve continuous months of service shall begin participation in the retirement system; and who have attained the age of ~~thirty~~ and (b) all permanent full-time or permanent part-time employees, who have twelve months of service within a five-year period, and who have attained the age of twenty, and who may exercise the option to ~~join~~ begin participation in the retirement system. An employee who exercises the option to ~~join~~ begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

~~(2)~~ (3) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

~~(3)~~ (4) Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

~~(4)~~ (5) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

~~(5)~~ (6) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and

make required contributions to the retirement system. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 56. Section 84-1310.01, Revised Statutes Supplement, 2001, is amended to read:

84-1310.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ equities and ~~domestic~~ fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of ~~domestic~~ common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in ~~domestic~~ short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 57. Section 84-1311.03, Revised Statutes Supplement, 2001, is amended to read:

84-1311.03. (1) On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employer account after such date to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent ~~domestic~~ equities and seventy-five percent ~~domestic~~ fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent ~~domestic~~ equities and fifty percent ~~domestic~~ fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent ~~domestic~~ equities and twenty-five percent ~~domestic~~ fixed income instruments.

If a member fails to select an option or combination of options, all

of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 58. Section 84-1312, Reissue Revised Statutes of Nebraska, is amended to read:

84-1312. (1) For purposes of this section and section 84-1313:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified ~~trust~~ plan described in section 401(a) of the code, ~~and~~ (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means ~~only~~ subdivisions (1)(c)(i) ~~and (ii)~~ through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Sec. 59. Section 84-1313, Reissue Revised Statutes of Nebraska, is amended to read:

84-1313. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 84-1322 or 84-1325 if the contributions do not exceed the amount of payment authorized to be paid by the member pursuant to section 84-1322 or 84-1325 and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified ~~trust~~ plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is

attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified ~~trust~~ plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified ~~trust~~ plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 84-1322 or 84-1325.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified ~~trust~~ plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

~~(4)~~ (5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 60. Section 84-1322, Reissue Revised Statutes of Nebraska, is amended to read:

84-1322. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions within sixty days under rules and regulations established by the board. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

~~(c) After the member completes one year of service following reemployment, the~~ The value of the member's forfeited employer account, as of the date of forfeiture, shall be restored ~~at the end of the plan year~~ in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a

lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Sec. 61. The retirement system may accept as payment for withdrawn amounts made pursuant to the State Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Sec. 62. Section 84-1331, Reissue Revised Statutes of Nebraska, is amended to read:

84-1331. Sections 84-1301 to 84-1331 and section 61 of this act shall be known and may be cited as the State Employees Retirement Act.

Sec. 63. Section 84-1503, Revised Statutes Supplement, 2001, is amended to read:

84-1503. (1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To adopt and implement procedures for reporting information by employers, as well as sampling and monitoring procedures. The information necessary to determine membership shall be provided by the employer. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision; and

(g) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 and to notify the Nebraska Retirement Systems Committee of the Legislature of the failure of any governmental entity to file such reports.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services,

actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once in every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 31, 1992, and at intervals of not less than ten years and not more than fifteen years and shall be in such amounts as the Legislature shall direct, except that up to seventy-five thousand dollars may be transferred in FY1993-94 to assist in completing the study authorized in Legislative Resolution 328, Ninety-second Legislature, Second Session, 1992;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which shall include, but not be limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 1997, and every four years from time to time thereafter at the request of the Nebraska Retirement Systems Committee, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; and (iii) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) The board and the Nebraska Investment Council shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. The analysis shall be prepared annually as of January 1. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement system. The analysis may be waived jointly by the board and the council for any retirement system with assets of less than ten million dollars. A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee. By March 1 of each year, the analysis shall be presented to the Nebraska Retirement Systems Committee.

(4) By March 1 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to,

the board's funding policy, member education and informational programs, the director's duties and the limits on his or her authority, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

Sec. 64. Sections 1 to 3, 12, 13, 19, 22 to 27, 30, 32 to 46, 49, 50, 54, 55, 60, 63, 66, and 67 of this act become operative on July 1, 2002. The other sections of this act become operative on their effective date.

Sec. 65. Original sections 23-2323.02, 72-1237, 72-1239.01, 72-1249.02, 79-933.01, 81-2031.03, 81-2031.04, 84-1312, 84-1313, and 84-1331, Reissue Revised Statutes of Nebraska, sections 23-2320, 24-710.05, 24-710.06, 79-901, and 79-933.02, Revised Statutes Supplement, 2000, and sections 23-2309.01, 23-2310.05, 23-2323.03, 23-2331, 24-701.01, 79-998, 81-2014.01, 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2001, are repealed.

Sec. 66. Original sections 72-1246, 79-927, 79-948, 79-966, 79-968, 79-971, 79-973, 79-976, 79-977, and 84-1322, Reissue Revised Statutes of Nebraska, sections 23-2308, 79-910, 79-916, 79-917, 79-947, 79-960, 79-963, 79-967, 81-2016, 84-1301, and 84-1307, Revised Statutes Supplement, 2000, and sections 23-2301, 23-2306, 24-702, 24-703, 79-902, 79-933.06, 79-934, 79-958, 81-2017, and 84-1503, Revised Statutes Supplement, 2001, are repealed.

Sec. 67. The following sections are outright repealed: Sections 79-914, 79-969, 79-970, and 79-972, Reissue Revised Statutes of Nebraska, and sections 72-1247 and 79-975, Revised Statutes Supplement, 2000.

Sec. 68. Since an emergency exists, this act takes effect when passed and approved according to law.